

Article - Natural Resources

[\[Previous\]](#)[\[Next\]](#)

§5–905.

(a) (1) On or before May 1 of each year, the Department shall notify each local governing body of its allocation of local acquisition and development funds for the next fiscal year within the limits imposed by the formula developed for the apportionment of the annual appropriations for Program Open Space.

(2) (i) By the first of July each year, a participating local governing body shall submit an annual program of proposed acquisition and development projects, together with a list of projects submitted by any municipal corporation to the local governing body and not included in the local governing body's annual program, to the Department of Planning for review and to the Department for approval.

(ii) A municipal corporation may submit an annual program through its local governing body.

(iii) A subdivision, for each proposed project under this subsection, shall consider whether it is feasible to provide public access to the proposed project.

(iv) When considering whether it is feasible to provide public access to a proposed project under this paragraph, a subdivision may consider:

1. The availability of funds available under this program or from other sources to provide public access to the proposed project;

2. Public safety and liability issues if public access were provided to the site;

3. Whether the site for the proposed project was acquired as a part of a larger recreational and open space project that is not yet completed and ready for public access; and

4. The existence of a contractual commitment on the site for a proposed project that would limit public access for a period of time, including a home, agricultural, or hunting lease.

(3) (i) Upon review by the Department of Planning and approval by the Department and the Board of Public Works, the allocated funds shall be

encumbered for the purposes of §§ 7–305(d)(3) and 8–128(c) of the State Finance and Procurement Article, and the annual program shall become the basis for a grant agreement for the total allocation to each of the local governing bodies.

(ii) Prior to approval of a local annual program, or any revision thereof, the Department shall provide the legislators from the district within which any part of the local jurisdiction is located the opportunity to review and comment on the annual program or its revisions.

(4) Any program may be revised by the local governing body and the revised program, after the Department of Planning reviews and the Department approves it, shall be substituted for the original program in the grant agreement.

(5) (i) In accordance with the Department's regulations, upon receipt of evidence from the local governing body of a county or municipal corporation that funds have been spent on a project that is approved in the grant agreement, the Department shall cause the requested amount of funds from the local governing body's allocation to be reimbursed to the local governing body.

(ii) Any municipal corporation may submit evidence of expenditures for approved projects through its local governing body to the Department.

(b) (1) Except as provided in subsection (c)(1) of this section and except in Baltimore City, at least one half of a local governing body's annual apportionment shall be used for acquisition projects. Local matching funds are not required for acquisition projects. If the local governing body is unable to obtain federal funds pursuant to § 5–906 of this subtitle, for an approved local acquisition project, the total cost of the project shall be defrayed out of the local governing body's annual apportionment of State funds for open space. In Baltimore City any portion of the annual apportionment may be used either for acquisition or development.

(2) A local governing body shall prepare a local land preservation and recreation plan with acquisition goals based upon the most current population data available from the Department of Planning and submit it to the Department and to the Department of Planning for joint approval according to the criteria and goals set forth in guidelines prepared by the Department and the Department of Planning. A local governing body shall revise its local land preservation and recreation plan at least every 5 years and submit the revised local plan to the Department and to the Department of Planning for joint approval 1 year prior to the revision of the Maryland Land Preservation and Recreation Plan. Prior to approval of a revised local plan, the Department shall provide the legislators from the district within which any part of the local jurisdiction is located the opportunity to review and comment on the revised local plan.

(3) Subject to the approval of the Department, a local governing body may use part of its acquisition funds for initial or periodic updating of local land preservation and recreation plans. The amount that may be used by a subdivision for planning purposes in the local land preservation and recreation plan shall not exceed \$25,000 for any one fiscal year. Local matching funds are not required for planning or updating the local land preservation and recreation plan.

(4) If federal funds are provided on any acquisition project, the State shall provide 100 percent of the difference between the total project cost and the federal contribution.

(5) (i) A local governing body shall use part of its funds reserved for acquisition for a local advance option and purchase fund. The funding level of the local advance option and purchase fund shall be determined on an annual basis and submitted as part of the annual program under subsection (a) of this section. The local advance option and purchase fund may be used to obtain an option on any parcel of land identified by the local governing body as facing intense development pressure within that county in advance of purchase or to purchase specific tracts of land.

(ii) Funds available in a local advance option and purchase fund shall be allocated in the following order of priority:

1. First to obtain an option on any parcel of land identified by the local governing body as facing intense or immediate development pressure within that county in advance of purchase, or to purchase a specific tract of land identified by the local governing body as facing intense development pressure within that county; and

2. Then to purchase property on which an option has been obtained or any other parcel of land.

(6) (i) A local governing body may use part of its funds reserved for acquisition for a local land trust grant fund.

(ii) A local land trust grant fund may be used to:

1. Make matching or reimbursable grants to land trusts for the acquisition of interests or rights in real property for recreational or open space purposes; or

2. Acquire, under an agreement with a land trust, title to or an interest or right in property owned by a land trust or property on which the land trust holds an option or a contract to purchase.

(iii) As a condition to any agreement under which a local government agrees to acquire title to or an interest or rights in property owned by a land trust or property on which the land trust holds an option or a contract to purchase, a perpetual conservation easement on the land shall be donated.

(iv) A project may not receive funds from a local land trust grant fund unless:

1. The project is approved in the local governing body's grant agreement; or

2. The Department and the Board of Public Works approve the project as being in conformity with criteria governing land acquired under a local grant from Program Open Space.

(v) The Department may approve a grant from a local land trust grant fund conditional upon modifying its terms.

(7) (i) Except as provided in subparagraph (iii) of this paragraph, if any portion of an annual apportionment to a local governing body is not encumbered within 5 years of the allocation, the unencumbered funds shall revert to the Department, to be held by the Department in a special account until the beginning of the next fiscal year.

(ii) At the beginning of the next fiscal year, the funds held in the special account under subparagraph (i) of this paragraph shall be added to the funds appropriated under § 5-903(b) of this subtitle to assist local governing bodies in acquisition and development of land for recreation and open space purposes.

(iii) If a local governing body demonstrates to the Department that unencumbered funds have been designated for a specified purpose, subparagraph (i) of this paragraph does not apply to the funds.

(c) (1) (i) One half of any local governing body's annual apportionment shall be used for acquisition or development projects provided that up to 20 percent of the funds authorized for acquisition or development projects under this subparagraph may be used for capital renewal as defined in § 5-901 of this subtitle.

(ii) 1. Except as provided in subsubparagraph 2 of this subparagraph, if the Department and the Department of Planning certify that acquisition goals set forth in the current, approved local land preservation and recreation plan have been met and that such acreage attainment equals or exceeds

the minimum recommended acreage goals developed for that jurisdiction under the Maryland Land Preservation and Recreation Plan, a local governing body may use up to 75 percent of its future annual apportionment for development projects for a period of 5 years after attainment, provided that up to 20 percent of the funds authorized for use for development projects under this subparagraph may be used for capital renewal.

2. If the Department and the Department of Planning certify that acquisition goals set forth in the current, approved local land preservation and recreation plan have been exceeded and that the acreage attainment exceeds the minimum recommended acreage goals developed for that jurisdiction under the Maryland Land Preservation and Recreation Plan, the local governing body of a jurisdiction that has more than 65,000 acres of land within the jurisdiction consisting of State forests, State parks, or wildlife management areas may use up to 100 percent of its future annual apportionment for development projects and capital renewal.

(iii) If a county determines that it qualifies for the additional funds for development and capital renewal projects under subparagraph (ii) of this paragraph, before the due date for all local governing bodies to submit revised local land preservation and recreation plans, that county may submit an interim local land preservation and recreation plan:

1. Prior to the submission under subsection (b)(2) of this section; and

2. In addition to the submission required under subsection (b)(2) of this section.

(2) The State shall provide 100 percent of the total project cost of each approved local acquisition project or, if federal funds are provided, 100 percent of the difference between the total project cost and the federal contribution.

(3) (i) Except as provided in subparagraph (iii) of this paragraph, if the local governing body is unable to obtain federal funds pursuant to § 5-906 of this subtitle, for each approved local development project the State shall provide:

1. 75 percent of the total project cost; or

2. If the Department has certified pursuant to paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the total project cost.

(ii) Except as provided in subparagraph (iii) of this paragraph, if federal funds are provided on any development project cost, the State shall provide

50 percent of the difference between the total project cost and the federal contribution. Subject to the limitation that total State funds, when added to every other available fund, may not exceed 100 percent of a project's cost, the minimum State contribution to a project shall be 25 percent. If the federal funds are less than 50 percent of the total project cost, the State shall provide an amount equal to the difference between the federal contribution and:

1. 75 percent of the total project cost; or
2. If the Department has certified pursuant to paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the total project cost.

(iii) 1. Subject to the requirement in subsubparagraph 3 of this subparagraph, if a local governing body uses its funds appropriated under § 5–903(b)(1) of this subtitle to build a recreational facility within a priority funding area, as defined in § 5–7B–02 of the State Finance and Procurement Article, the State shall provide 90 percent of the total project cost.

2. Subject to subsubparagraph 4 of this subparagraph, if a local governing body uses its funds appropriated under § 5–903(b)(1) of this subtitle to construct an indoor recreational facility that is not ancillary and necessary for outdoor recreation, and will be located outside of a priority funding area, as defined in § 5–7B–02 of the State Finance and Procurement Article, the State shall provide 50 percent of the total project cost.

3. The State shall provide 90 percent of the total project cost under subsubparagraph 1 of this subparagraph if the local governing body agrees to limit the amount of impervious surface on the land acquired within a priority funding area, as defined in § 5–7B–02 of the State Finance and Procurement Article, to no more than 10 percent of the land.

4. The 50% funding limit under subsubparagraph 2 of this subparagraph does not apply if the Department determines that:

A. The indoor recreational facility is designed to serve multiple priority funding areas, as defined in § 5–7B–02 of the State Finance and Procurement Article, or multiple census designated places within a priority funding area;

B. The indoor recreational facility contains equipment or facilities, including a swimming pool, that cannot be supported in multiple locations; and

C. The applicable local government planning and zoning agency has verified that the location of the indoor recreational facility is consistent with the local government's comprehensive plan.

(d) If land is donated to local governing bodies during the fiscal year, 75 percent of the appraised value the Department approves may be applied as a portion of, or all of, the local governing body's share of the project's cost for the projects referred to in § 5-904 of this subtitle.

(e) If federal funds are received for any approved local project after it was funded by the State in accordance with subsection (b) of this section or § 5-904 of this subtitle, the applicant shall reimburse the State in an amount equal to the federal contribution. The reimbursement shall be reserved for other projects approved for the applicant up to the limit of the share allocated to the local governing body.

[\[Previous\]](#)[\[Next\]](#)